

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

| | | |
|--|---|-------------------------|
| ATLANTIC SPECIALTY INSURANCE |) | |
| COMPANY, |) | |
| |) | |
| Plaintiff, |) | |
| v. |) | Case No.: 23-CV-373-DES |
| |) | |
| AIG CLAIMS, INC., AND TATA AIG GENERAL |) | |
| INSURANCE COMPANY, |) | |
| |) | |
| Defendants |) | |

NOTICE OF REMOVAL

Defendant AIG Claims, Inc. (“AIG Claims” or “Removing Defendant”), under 28 U.S.C. § 1441(a) and (b) and 28 U.S.C. § 1332, files this Notice of Removal.

1. Plaintiff Atlantic Specialty Insurance Company filed its Petition on September 28, 2023, against AIG Claims and Tata AIG General Insurance Company in the district court for Murray County, Oklahoma. The case number is CJ-2023-69.

2. Plaintiff’s Petition alleges it paid \$4,000,000 to settle a wrongful death lawsuit arising out of an automobile accident. The wrongful death lawsuit was styled as *The Estate of Randi Shavonne Kirkland, by and through Special Administrator, Virginia Kirkland v. Hexaware Technologies Inc., et al.*, No. CJ-2019-00053 (Murray County District Court, Okla.), which was removed to the Eastern District of Oklahoma and assigned Case No. 6: 19-cv-00411 (“Underlying Lawsuit”). Petition, ¶34. Plaintiff’s Petition alleges it paid the settlement funds under a Commercial Liability Policy and an Umbrella Commercial Liability Policy issued by Plaintiff to Hexaware US. Petition, at ¶¶ 14-28. Hexaware US employed the driver of one of the vehicles involved in the accident. *Id.* at ¶ 33.

3. Plaintiff’s Petition alleges causes of action against Tata AIG General Insurance

Company for breach of contract, breach of the duty of good faith and fair dealing, equitable contribution, contractual subrogation, and equitable subrogation. Plaintiff alleges a cause of action for breach of the duty of good faith and fair dealing against AIG Claims.

4. Plaintiff is incorporated under the laws of New York with its principal place of business in Minnesota.

5. Plaintiff alleges Tata AIG General Insurance Company is an insurance joint venture formed under the laws of India with its principal place of business in India. Petition, at ¶5. Tata AIG General Insurance Company has not been served with the Petition and Summons.

6. AIG Claims is incorporated under the laws of Delaware with its principal place of business in New York. AIG Claims was served with the Petition and Summons on September 29, 2023. However, AIG Claims was fraudulently joined to defeat removal, and therefore, its citizenship should be disregarded for purposes of removal and jurisdiction. AIG Claims is a claims administrator, not an insurer, and did not have a “special relationship” with the defendants in the Underlying Lawsuit. Removal by a fraudulently joined defendant does not render the removal procedurally defective. *Bova v. U.S. Bank, N.A.*, 446 F. Supp. 2d 926, 931 (S.D. Ill. 2006); *Rymer v. Travelers Indem. Co.*, No. 516CV534ORL37PRL, 2016 WL 4815038, at *1 (M.D. Fla. Sept. 14, 2016); *Moreno Energy, Inc., v. Marathon Oil Co.*, 884 F.Supp.2d 577, 588 (S.D. Tex. 2012); *Stegall v. Casillas*, No. 2:16-CV-381, 2016 WL 6397668, at *2 (S.D. Tex. Oct. 28, 2016).

7. Plaintiff alleges Tata AIG General Insurance Company issued Policy No. 0301003332 to Hexaware Technologies, Ltd and its subsidiaries. Petition, at ¶8. No insurance policy was issued by AIG Claims. Plaintiff also alleges a passenger in one of the vehicles involved in the accident was employed by Hexaware Technologies, Ltd. Petition, at ¶33.

8. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(a)(1). Tata AIG General Insurance Company is not a citizen of New York or Minnesota. Plaintiff seeks compensatory damages in excess of the amount required for diversity jurisdiction under 28 U.S.C. § 1332. *See* Petition, Prayer for Relief.

9. The following is a complete list of the process, pleadings, motions, and orders from the Court Docket:

- a. Exhibit 1 – Petition
- b. Exhibit 2 – Entry of Appearance – Fob F. Jones
- c. Exhibit 3 – Entry of Appearance – Evan G. Vincent
- d. Exhibit 4 – Return of Service by Certified Mail on AIG Claims

10. Contemporaneous with the filing of this Notice, AIG Claims will mail a copy of this Notice of Removal for filing in the District Court of Murray County, Oklahoma. AIG Claims will also provide a copy of this Notice to Plaintiff.

11. Plaintiff did not demand a jury trial in its Petition.

Dated this 30th day of October, 2023.

Respectfully submitted,

By /s/Kerry R. Lewis
JOHN H. TUCKER, OBA #9110
jtucker@rhodesokla.com
KERRY R. LEWIS, OBA #16519
klewis@rhodesokla.com
RHODES, HIERONYMUS, JONES,
TUCKER & GABLE
P.O. Box 21100
Tulsa, Oklahoma 74121-1100
(918) 582-1173
(918) 592-3390 Facsimile
Attorneys for Defendant AIG Claims, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of October, 2023, the above was sent via U.S. Mail to the below counsel of record:

Fob F. Jones
1010 West Second Street
Sulphur, OK 73086

And

Evan G. Vincent
Crowe & Dunlevy, P.C.
Braniff Building
324 North Robinson Avenue, Suite 100
Oklahoma City, OK 73102-8273
*Attorneys for Plaintiff Atlantic Specialty
Insurance Company*

/s/Kerry R. Lewis

Kerry R. Lewis/ John H. Tucker